

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-222511 **DATE:** June 17, 1986
MATTER OF: The Racal Corporation

DIGEST:

Where the agency admits that certain improprieties in the conduct of a procurement under a request for quotations may have denied the protester an opportunity to compete fairly for the contract, but that corrective action is not feasible because the contract has already been performed, the protester is entitled to recover the costs of preparing its quotation and the costs of filing and pursuing the protest since the firm was unreasonably excluded from the procurement.

The Racal Corporation protests the award of a contract to Honeywell Test Instruments Division under request for quotations (RFQ) No. N60530-86-Q-BE98, issued by the Department of the Navy. The procurement was for the acquisition of a mainframe tape recorder with signal electronics. Racal alleges that Honeywell was improperly allowed to submit a price quotation lower than Racal's after the RFQ closing date. We sustain the protest.

The Navy has not filed an administrative report in the matter, but rather has advised this Office that "certain improprieties took place during the procurement process which may have denied Racal Corporation an opportunity to compete fairly for this contract." however, the Navy has further advised that the normal corrective action it would take in this situation--termination of Honeywell's contract and resolicitation of the requirement--is not feasible because Honeywell has already delivered the equipment.

Since the Navy has admitted that Racal was unreasonably excluded from the procurement, but corrective action is not possible in the circumstances, the firm is entitled to recover the costs of preparing its quotation and of filing and pursuing the protest. See Introl Corp., 64 Comp. Gen. 672 (1985), 85-2 CPD ¶ 35. Racal should submit an accounting of these costs directly to the Navy, and the firm

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and the agency should attempt to reach an agreement on the allowable amount of the costs. Id. If they cannot reach agreement within a reasonable time, this Office will determine the amount pursuant to our Bid Protest Regulations, 4 C.F.R. § 21.6(f) (1985). See Introl Corp., B-218339.2, Mar. 21, 1986, 65 Comp. Gen. ___, 86-1 CPD ¶ 279.

The protest is sustained; the protester is entitled to the costs indicated above.

for Milton F. Jordan
Comptroller General
of the United States